UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/115,359	07/14/1998	JOHN W. MERILL	INTL-0038-US	1288

7590	03/24/2004	EXAMINER

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ART UNIT	PAPER NUMBER
2654	21

DATE MAILED: 03/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>RCE 23 Feb 2004</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>33-52</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>33-52</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

1.   Applicant's correspondence filed on   (paper #20) has been received and considered.

Claims 33-52 are pending. Claims 1-32 have been canceled.

Title

2.   The title is objected to because it is not descriptive of the claimed invention.

Claims

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
>
> described as set forth in section 102 of this title, if the differences between the subject
>
> matter sought to be patented and the prior art are such that the subject matter as a whole
>
> would have been obvious at the time the invention was made to a person having ordinary
>
> skill in the art to which said subject matter pertains. Patentability shall not be negatived
>
> by the manner in which the invention was made.

4.   Claims 33-52 are rejected under 35 USC 102(e) as being anticipated by Trower (5,983,190).

As per claims 33, 39, 45, 46: "providing a single software object that receives spoken

and non-spoken command information" (his <u>collection of commands that an agent object will respond</u>

<u>to when a client becomes active</u> and also <u>enables its selection through speech recognition</u>, col. 27,

lines 5-26); and

"firing an event when an object receives spoken command information" (his <u>OLE</u>

<u>object can expose a set of functions that is derived from IDispatch and includes method and property</u>

<u>access functions that another program can call directly. This is sometimes called a 'dual' interface</u>

because other programs can invoke an object's methods through the IDispatch interface and directly through this second type of interface, col. 21, lines 17-23 – This clearly teaches a single object may perform multiple functions, can invoke multiple methods and can include multiple interfaces to receive different types of information).

Firing the same event when receiving spoken and "non-spoken command" is clearly included by Trower who will allow his object's methods to be controlled by more than one interface. Thus, it is apparent that any known control methods could invoke any known program functions using the interface taught by Trower. Since Trower explicitly teaches keyboard and pointing devices (figure 1) as well as speech recognition (figure 3), any combination of these is anticipated.

Claims 34, 40, 48: "Providing a speech engine with a vocabulary command set for at least two tasks" (his speech recognition engine analyzes digitized audio input to identify words or phrases, col. 2, lines 47-48.

Claims 35, 41, 49: "Associating a command with an identifier" is taught in column 2 where he states that clients can specify input commands including both speech and cursor device input for the character (lines 29-30) and Clients specify the speech or cursor input that a character will respond to . . . . The server monitors input from the operating system (cursor device input) and the speech recognition engine (speech input) for this input (lines 63-66). Thus, he clearly anticipates the use of a common identifier for both speech and cursor device inputs.

"Associating the identifiers with actions to be taken in response to a command" is taught by his ability to play animation and speech output to animate the character . . . (col. 2, lines 31-34). Thus, he clearly anticipates the use of externally visible actions as opposed to actions internal to

the computer that the user would not see. However, it is noted that the claim language does not state

what the action is and would therefore be anticipated even if these other actions were absent.

Claims 36, 42, 50: "Instantiating an object in a container" is taught by figure 10 and column

20, lines 1-19 and 55-62 where he teaches that the server must first create the object (i.e., instantiate an

object of a class supported by the server application). "Communicating the identifier to the object for

a command" is inherent for any known use of speech recognition to affect control of an object and is

anticipated by any one of his use of input commands, character, name or text string in column 2 (for

example) which affect his use of commands that an agent object will respond to when a client becomes

active . . . The client can also set the Voice property for a command, which enables its selection

through speech recognition (col. 27, lines 5-26). Identifiers may also be embedded in an HTML page

and example methods include Play, GestureAt, MoveTo, Stop, and Speak (col. 22, line 40 – col. 23,

line 12), which give examples of specific actions that can be performed by the agent object.

Claims 37, 43, 51: "Communicating information about a first spoken command to the

container, checking an active vocabulary list in the container to determine if the first spoken command

is one used in an active task, and if the first spoken command is one used in an active task, transferring

the identifier for the spoken command to the object." This is taught by his speech recognition engine

in communication with an audio input device for receiving speech input from the user . . . to identify

the speech input commands; and in communication with the receiver for sending notification messages

to the server when the speech input commands are detected (col. 39, lines 27-33).

See also his active vocabulary of the speech recognition engine (col. 28, lines

49-50), a list of commands that are currently available to the user (col. 27, lines 7-8), the client

specifies the string value corresponding to the words or phrase to be used by the speech engine to

recognize this command (col. 27, lines 57-59) and it is ultimately the end user that is controlling which client has the chance to become active (col. 33, lines 60-61).

Claims 38, 44, 47, 52: "Handling spoken and non-spoken commands in the same way" is taught by Trower as previously explained regarding claim 33 above because he clearly teaches that multiple inputs may activate the same object and it's encapsulated functionalities. The same command would cause the same result whether spoken, typed, etc.

5.   Claims 33-52 are rejected under 35 USC 103(a) as being unpatentable over Hashimoto (5,632,002)

Claim 33, 39, 45, 46: "providing a single software object" (his plurality of application programs 2 are operated in parallel, each application program 2 can exchange data such as the recognition vocabulary and the recognition result with the speech recognition system 1 . . . so that the speech input can be provided as the data input means for all the application programs 2 just as the other data input means such as the keyboard and the mouse, col. 18, lines 10-22);

"object ... that receives both spoken sand non-spoken command information; firing an event when said object receives spoken command information; and ... unspoken command information" (his SIM 104 converts the speech inputs into the form acceptable by the GAP 103 such as that of the mouse inputs or the keyboard inputs, col. 59, lines 49-58 and the SIM 104 transmits the messages identical to those generated at the time of the operation command inputs by the usual input devices such as the keyboard and the mouse, col. 60, lines 1-21).

It is noted that Hashimoto does not explicitly teach "firing an event" related to a command. However, Hashimoto teaches that many different application programs 2 (figure 6) may be implemented with his interface. It would have been obvious to one of ordinary skill in the art that even though Hashimoto does not describe specific actions to be employed by the applications that applications will perform actions desired by the users thereof. Performing only desirable "event" is further suggested by Hashimoto in col. 11, lines 44-59 where he explains that his interface will limit recognition in order to avoid wasteful matching processing with respect to the unnecessary recognition vocabularies. This teaches that only desirable applications will be utilized and one of ordinary skill in the art would expect this to result in only events taking place as desired by the user by such a limitation to active vocabularies.

Claim 34, 40, and 48: "Providing a speech engine with a vocabulary command set for at least two tasks" (his ability to handle a plurality of application programs simultaneously, abstract – see also the specific teaching above to operate in parallel).

Claims 35, 41, and 49: "Associating a command with an identifier" (he teaches that such an operation command transmission can be easily implemented by utilizing the functions provided in the library of the window system. In the actual window system, there are cases in which the destination of the messages is not the GAP 103 itself but the object such as the window generated by the GAP 103, col. 60, lines 21-31).

Claims 36, 42, 50: "Instantiating an object in a container" is taught by figure 62 where he teaches initial set up ... 6101 ... concerning speech output processing 6102 followed by "Communicating the identifier to the object for a command" where he follows by speech input &

speech output processing 6103 which would need to interpret the command to generate proper output based on certain input.

Claims 37, 43, 51: "Communicating information about a first spoken command to the container, checking an active vocabulary list in the container to determine if the first spoken command is one used in an active task, and if the first spoken command is one used in an active task, transferring the identifier for the spoken command to the object" is taught by his program management table 13 has entries for the program Ids, the input masks, the recognition vocabulary lists, and the speech input flags . . . The speech input flag is a flag indicating whether or not the speech focus is focused on a corresponding one of the application programs 2 or not (col. 10, line 58 – col. 11, line 10).

Claims 38, 44, 47, 52: "Handling spoken and non-spoken commands in the same way" is taught as noted under claim 33 above because he has a single message processing unit MPU that is able to communicate with speech recognition and the application programs.

Response to argument

6.   The claims are now more clearly worded so that they more clearly read upon the prior art.

The argument that the prior art fails to teach a single software object is not convincing. One of ordinary skill in the art would know that software objects could contain a simple programming of only one line or a very complicated programming with multiple routines. Similarly, the definition of "object" that the applicant provided to the Board clearly states object: 2. In object-oriented programming, a variable comprising both routines and data that is treated as a discrete entity. Thus, even the definition provided by the applicant clearly acknowledges that a single object may contain multiple routines that may be treated as a discrete entity.

The rejections were re-worded to more clearly address the changes as reflected in the newly submitted claims. However, the grounds of rejection are essentially the same as those previously adjudicated by the Board. It is the Examiner's position that Res judicata applies now that the "factual question" regarding the "definition of an object" has been resolved (this was noted by the Board in paper 19 of 27 Oct 2003 in which the Board denied the applicant's request to make changes to their previous decision of paper 17 of 29 Jan 2004 in which the rejection was Affirmed).

7.   All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
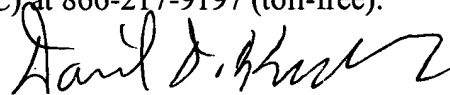
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David D. Knepper whose telephone number is (703) 305-9644.

The examiner can normally be reached on Monday - Thursday from 7:30 a.m. to 6:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Richemond Dorvil can be reached on (703) 305-9645. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David D. Knepper
Primary Examiner
Art Unit 2654